

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

CRAIG CUNNINGHAM	§	
	§	
v.	§	CIVIL CASE NO. 4:20-CV-145
	§	
4BUSH HOLDINGS, LLC, ET AL.	§	

**ORDER GRANTING MOTION TO DISMISS ALL PARTIES**

Before the Court is Plaintiff Craig Cunningham’s motion to dismiss all parties with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).<sup>1</sup> (Dkt. #20). “The primary purpose of Rule 41(a)(2) is to prevent voluntary dismissals which unfairly affect the other side, and to permit the imposition of curative conditions.” *Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002) (internal quotation marks omitted) (citing 9 C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2364, at 165 (1971)). For that reason, “as a general rule, motions for voluntary dismissal should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit.” *Id.* Having reviewed the record and the applicable law, the Court finds that no party has objected to the motion and that no prejudice would arise from granting the motion.

It is therefore **ORDERED** that Cunningham’s motion to dismiss all parties

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<sup>1</sup> Dismissal pursuant to Rule 41(a)(1)(A)(i) is available in this case because Defendants have not filed an answer or a motion for summary judgment. *See* FED. R. CIV. P. 41(a)(1)(A)(i). Rule 41(a)(1)(A)(i) dismissal automatically terminates a case upon filing, without need for a court order. *In re Amerijet Int’l, Inc.*, 785 F.3d 967, 973 (5th Cir. 2015) (per curiam), *as revised* (May 15, 2015). However, because Cunningham moves the Court for dismissal, rather than noticing dismissal under the aforementioned rule, the Court construes the motion as a request for dismissal pursuant to Rule 41(a)(2), which requires a court order. *See* FED. R. CIV. P. 41(a)(2).

with prejudice, (Dkt. #20), is hereby **GRANTED**.

It is further **ORDERED** that all of Cunningham's claims against the Defendants are **DISMISSED WITH PREJUDICE**. All relief not previously granted is **DENIED as moot**. Each party bears its own attorneys' fees and costs.

The Clerk is directed to **CLOSE** this civil action.

**So ORDERED and SIGNED this 22nd day of June, 2020.**

  
SEAN D. JORDAN  
UNITED STATES DISTRICT JUDGE